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Attorney for Intervenor-Applicant
CITY AND COUNTY OF HONOLULU

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

GERARD K. PUANA,

Plaintiff,

vs.

KATHERINE P. KEALOHA, LOUIS
M. KEALOHA, MINH-HUNG
"BOBBY" NGUYEN, DANIEL
SELLERS, NIAL SILVA, WALTER
CALISTRO, DRU AKAGI, JOHN
and/or JANE DOES 1-50,

Defendants.

CIVIL NO. 16-00659 JMS/WRP

INTERVENOR-APPLICANT CITY
AND COUNTY OF HONOLULU'S
RESPONSE TO PLAINTIFF'S
FURTHER LETTER BRIEFING;
CERTIFICATE OF SERVICE

Trial Date: None

INTERVENOR-APPLICANT CITY AND COUNTY OF HONOLULU'S
RESPONSE TO PLAINTIFF'S FURTHER LETTER BRIEFING

INTERVENOR-APPLICANT CITY AND COUNTY OF HONOLULU

(hereinafter "City"), pursuant to the Court's Order (ECF No. 76), hereby submits its

response to Plaintiff's further letter briefing (ECF No. 77).

Plaintiff Gerard K. Puana requests leave to file a First Amended Complaint in his letter filed with the Court on August 14, 2020. FRCP 15(a)(2) provides leave to amend "shall be freely given when justice so requires." Further, a district court has discretion to allow a party to amend a pleading and may do so with "extreme liberality," *Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387 (9th Cir.1990) (internal citations omitted). In determining whether to allow amendment, courts consider: (1) whether the movant has acted with undue delay, bad faith or dilatory motive; (2) whether the opponent would be unduly prejudiced by amendment; (3) whether there have been repeated failures to cure, and (4) whether amendment would be futile. *See Foman v. Davis*, 371 U.S. 178, 182 (1962). Based on the review of Plaintiff's August 14, 2020 letter, it is difficult for City to take a formal position on this matter as Plaintiff's letter failed to either attach a draft of the proposed complaint and/or outline, definitively, the new parties and/or claims Plaintiff proposes to amend.

In the event that this Court is inclined to allow Plaintiff leave to file his First Amended Complaint, City requests that he be allowed to do so for the limited purpose of filing *only* the First Amended Complaint and that City (and any of the additional named Defendants who the City does not currently represent) reserves the right to file any and all requisite filings and/or motions when the case is formally reopened.

DATED: Honolulu, Hawai‘i, August 19, 2020.

PAUL S. AOKI
Acting Corporation Counsel

By: /s/ Traci Rei Morita
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CITY AND COUNTY OF HONOLULU

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Civil No. CV16-00659 JMS/WRP
CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that, on the date and by the methods of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses as shown below:

Served Electronically through CM/ECF:

ERIC A. SEITZ, ESQ.
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Attorneys for Plaintiff
GERARD K. PUANA

DATED: Honolulu, Hawai‘i, August 19, 2020.

PAUL S. AOKI
Acting Corporation Counsel

By: /s/ Traci Rei Morita
TRACI REI MORITA
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